

REMARKS**Claim Objections**

Claim 4 was objected to in the above-referenced office action due to informalities included in the original claim language. Applicant hereby submits the above amendment to the claim, wherein Applicant believes the above amendment places the claim in condition for allowance and respectfully requests that the claim objection be withdrawn.

Claim Rejections 35 U.S.C. §112

Claim 17 was rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and claim the subject matter which applicant regards as the invention. More specifically, claim 17 references a ring, wherein two rings are present in the claim language. Applicant hereby submits the above amendment to claim 17, wherein Applicant has amended claims 10 and 17 to recite a first and second ring.

Applicant believes that the above claim amendments place the claims in condition for allowance and respectfully requests that the claim rejection be withdrawn and the application advanced to allowance.

Claim Rejections 35 USC §102, Claims 1,6-8, and 10-17

Claims 1,6-8, and 10-17 have been rejected under 35 USC §102(b) as being anticipated by US Patent No. 4,506,475 to Elliott. It was stated in the above-referenced office action that Elliott teaches the present invention. More specifically it was stated that:

"... Elliott teaches a hanger for suspending a plant container and the like from a fixed support with a ring; an upper portion, the upper portion including at least two flexible members having first and second ends defining a length, wherein the flexible members are disposed on each side of the ring; a container supporting member, the container supporting member including at least two flexible members having first and second ends, each fixedly attached to one another about a midpoint and including connection means at each end, wherein the connection means are adapted to receive the first and second end of the upper members; the container supporting member further containing a third flexible support member, the third member is configured to be fixedly attached adjacent to the first and second ends of the flexible members."

Applicant respectfully directs the Examiner's attention to Claim 1 of the present application wherein it can be seen that Elliott does not teach every element of the Applicant's invention. More specifically,

Elliott fails to disclose a hanger that includes an upper portion and a lower portion. As shown in Figure 1, of Elliott, the hanger disclosed therein comprises lengths of chain which are received by hooks disposed on rigid rings thereby forming a single hanger portion.

Additionally, Elliott fails to teach a **flexible** retaining ring, wherein the flexible retaining ring is configured to receive the first and second ends of the lower flexible members and to retain the ends of the lower flexible members at a distance from one another. As described in Column 3, lines 21-24 of Elliott, it is stated that "The elements of the support base and the ring (21) are formed from iron rod and are welded together so as to be capable of bearing the weight of relatively heavy containers.

This is opposite to the **flexible** retainer ring of the present application, whereby according to the present application, the flexible ring is configured to adjust to different sized objects which may be disposed on the hanger in accordance with the present invention.

Applicant believes that claims 1 and 10 are allowable over Elliott because Elliott fails to teach **every** element of the present invention. Therefore, Applicant respectfully requests that the 35 U.S.C. §102(b) rejection be withdrawn for the reasons above.

Claims 11-17 are dependent claims that depend from allowable claims 1 and 10 and therefore include all of the limitations of the allowable base claim and are therefore also allowable.

Claims Rejection, 35 U.S.C. §103(a), Claims 1-9

Claims 1-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 2,532,306 to Herbert in view of U.S. Patent No. 4,101,109 to Edwards. It was stated in the above-referenced office action that:

"Regarding claim 1 Herbert teaches a hanger adapted for retaining and hanging objects with a ring (Herbert Fig. 1); at least two upper flexible members (Herbert #15) having a first and second ends, wherein each member is received through an aperture ring, the flexible members defining an upper portion of the hanger; a lower hanger portion, the lower hanger portion including at least two lower flexible members (Herbert #18) having first and second ends, wherein each of the two members are fixedly attached to each other at a mid point (Herbert #16), and a flexible retaining ring (Herbert #20), the flexible retaining ring configured to receive the first and second ends of the lower flexible members, wherein the retaining ring is configured to retain the ends of the lower flexible members at a distance from one another (Herbert Fig. 2)

Herbert is silent on the first and second ends including an adjustment means configured to receive the second ends of the upper flexible members. However, Edwards teaches a hanging suspension means that entails the upper and lower member connected with an adjustment means (Edwards #55). It would have been obvious to one of ordinary skill in the art to modify the teachings of Herbert with the teachings of Edwards at the time of the invention for the ergonomic adjustable vertical length taught by Edwards.”

Referring to the present invention, it is the Applicants belief that the hanger according to the present invention is not taught by the combination of Herbert in view of Edwards. More specifically, as defined in claim 1 of the present invention and shown in Figure 1 of the present invention, the hanger consists of two separate and distinct components. An upper portion and a lower portion. The upper portion including flexible members (35) passed through an aperture of a ring (20), wherein the second ends (31) of the upper members are received within an adjustment member (55) disposed on the lower hanger portion. As such, if desired the upper and lower hanger portions can be separated from one another by passing the second ends (31) of the flexible members (35) through the adjustment members (55). Further still, the lower portion includes a flexible retaining ring (58), wherein the flexible retaining ring is configured to space apart the lower flexible members, such that the lower flexible members are restrained from moving independently from one another.

Referring now to Herbert, there is shown a device for holding generally rectangular packages (Column 2 line 23) wherein the straps are made in different lengths to form loops of different sizes. As shown in Figure 1 and described in Herbert, the straps are made of a continuous length, therefore, do not form an upper hanger portion and a lower hanger portion as shown and described in the present invention. Further still, item #20 of Herbert was improperly referred to as a flexible ring in the above-referenced rejection, as described in Herbert (Column 2, line 40), the disk 20 may be made of metal, plastic or other suitable material. Therefore, as described in Herbert, the disk 20 must be constructed of a rigid material, and therefore cannot be constructed of a flexible material. Further still, with reference to Figures 4-8 of Herbert (Columns 3 and 4), there is described alternative embodiments of the disk 20, wherein, each embodiment is described as being a rigid member configured to retain the straps.

Because Herbert teaches a rigid member not a flexible member, Herbert teaches away from the present invention because as described in Herbert, the disc (buckle) must be constructed of a rigid material to retain the straps in a desired position.

As stated in the rejection that it would have been obvious to modify Herbert to include an adjustment means configured to receive the upper and lower portions. As previously described, Herbert does not disclose or teach upper and lower hanger members. Additionally, Herbert provides no motivation for having upper and lower hanger members and merely states that the straps may be constructed of a suitable flexible material.

Referring to Edwards, there is shown a hanger assembly having an upper portion, a lower portion and an adjustment means. As described above with regard to Herbert, Edwards also fails to teach or suggest a flexible retaining ring.

As described above, both Edwards and Herbert fail to provide any motivation for the combination sought in the above-referenced rejection. Further still, neither Edwards or Herbert standing alone or in combination teach or suggest every element of the present invention as described above. Therefore, Applicant respectfully requests that the above rejection be withdrawn and the application be advanced to allowance.

With regard to the rejections under 35 U.S.C. §103(a) for claims 2-9, Applicant respectfully directs the Examiner's attention to the above remarks to the claim 1 rejection. Wherein, claims 2-9 depend from the allowable independent claim 1 and therefore include all of the limitations of the allowable base claim and are therefore allowable also for the reasons stated above.

The 35 U.S.C. §103(a) Rejection, Claims 2-5 and 18

Claims 2-5 and 18 stand further rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,506,475 to Elliott.

It was stated in the above-referenced Office Action that with regard to Claims 2,3, and 5, Elliott is silent on the flexible members being nylon.

Applicant respectfully disagrees with the above rejection in that Elliott describes and shows that the flexible members must be constructed of chain in order for the ring members 21 and 11 to be received by the flexible members. (See Column 2, line 44). Therefore, if the flexible members of Elliott were changed to nylon, the rings could not be attached to the flexible members as described in Elliott, and therefore destroying the functionality of Elliott.

Thus, for the reasons above, it would not have been obvious to one of ordinary skill in the art to select nylon as a material for the flexible members of Elliott. Therefore, Applicant respectfully requests that the above-rejection be withdrawn and the application advanced to allowance.

With regard to Claim 4, it was stated that it would have been obvious to make the ring of Elliott adjustable. Applicant respectfully disagrees, in that as shown and described in Elliott, the ring 21 must be formed of a rigid material, as the ring 21 is utilized to retain the flexible members in a pre-set spacing with the use of the hooks 22. Additionally, as described in Elliott, the rigid ring 21 may be moved along the length of the flexible members to adjust for various sizes of plants. (See Column 3, line 8) Therefore, it would not have been obvious to one of ordinary skill in the art to construct the ring of a flexible material because Elliott already teaches how the rigid ring can be use to accommodate items of various size. Further still, as described in Elliott, the ring 21 may further be utilized as a trivet for support a pot in a spaced relation off of the floor. If the ring were constructed of a flexible material, the ring could not be used in such a manner, therefore destroying the teachings of Elliott.

Therefore, Applicant respectfully requests that the 35 U.S.C. §103(a) rejection with withdrawn with regard to claim 4 for the reasons above and the application advanced to allowance.

With regard to Claim 18, as described in Elliott, the rigid ring 21 would not allow an insulated cooler to be disposed therein because as it is know to one of ordinary skill in the art most insulated coolers are square or rectangular in shape. Thus, the rigid ring 21 of Elliott would not allow such an item to be retained therein.

Therefore, Applicant respectfully disagrees that Elliott teaches the present invention and therefore respectfully requests that the rejection be withdrawn.

Referring now to Claims 9 and 19, it was stated that claims 9 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatenable over Elliott in view of Edwards. It was stated that Elliott is silent on a buckle. However, Edwards teaches a support suspension means utilizing a buckle adjustment means to suspend heavy loads and that it would have been obvious to one of ordinary skill in the art to modify Elliott with the teachings of Edwards.

Applicant respectfully disagrees with the above-rejection in that one or ordinary skill in the art would not have been motivated to add a buckle to the flexible **chain** members of Elliott. As previously described with regard to claims 2,3 and 5, the flexible members of Elliott must be constructed of chains. Therefore, one of ordinary skill in the art would not have been motivated to add a buckle to the chains of Elliott because buckles are not typically associated with chains.

Further still, Elliott fails to teach or disclose a hanger member that is constructed of more than one piece or that can be adjusted for length.

Therefore, for these reasons, Applicant respectfully asks that the above claim rejection be withdrawn and the application be advanced to allowance.

CONCLUSION

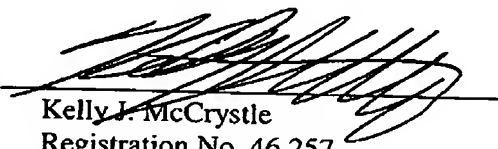
Applicant respectfully requests reconsideration of the present application in view of the above amendments and remarks. Applicant believes that the present invention is allowable over the references cited in the above-referenced Office Action for the reasons above and respectfully requests that the rejections be withdrawn and the application be advanced to allowance.

If any questions arise regarding the enclosed documents, undersigned can be reached by telephone at (650)-245-4138.

Respectfully submitted,
McCrystle & Associates

Date: September 20, 2004

By: _____


Kelly J. McCrystle
Registration No. 46,257

McCrystle & Associates
P.O. Box 848
Belmont, CA 94002
Telephone: (650) 888-8102
Facsimile: (650) 508-1174